IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1941.

No. 30

DANIEL D. GLASSER, *Petitioner,*

vs.

UNITED STATES OF AMERICA.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF OF AMICI CURIAE IN BEHALF OF PETITIONER, DANIEL D. GLASSER.

RALPH M. SNYDER,
JOHN ELLIOTT BYRNE,
PAUL H. MOORE,
DANIEL A. CAREY,
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On behalf of the practicing lawyers of Chicago, whose sense of justice and fair play has been outraged by the unfair tactics, innuendoes and failure to prove any wrongdoing on the part of petitioner, Daniel D. Glasser, we believe that our duties to this Court will be discharged by a discussion of but one of the seven points mentioned in the brief of Amici Curiae, which by leave of this Court was previously filed. That point was and is:

"Glasser was tried on nebulous charges of conspiracy with no proof before the jury to sustain such charges."

The other points mentioned in our brief are fully treated in the Petition for Writ of Certiorari, the Reply Brief for Petitioner, and the brief for Petitioner, all filed by Messrs. Homer Cummings and William D. Donnelly.

There was no evidence whatever that Glasser either solicited or received any bribes from anyone, on the contrary, the Government admitted "there is not anything in this indictment that says anybody paid Glasser a bribe" (R. 154).

There was no evidence whatever that Glasser conspired with anyone for any purpose. As a last resort, the prosecution relied on the innuendo that *someone* had been bribed (not Glasser) and that Glasser had failed in the discharge of his duties. There is no proof that Glasser either wrongfully withheld material evidence or an available competent witness or did any unlawful act or omitted to do any necessary act in the conduct of his cases before the Commissioner, before the Grand Jury, the District Court, or the Court of Appeals.

The absence of this proof is significant, in view of the fact that Glasser tried about half of the cases that were being tried in the District Attorney's Office in Chicago, during the four years of his tenure. Glasser presented hundreds of cases before the grand jury. Of the forty Grand Juries before whom he appeared, there should have been some eight hundred jurors, some of whom would have had information if information there was that Glasser had done anything wrongful. Not one grand juror testified that Glasser either did anything wrongful or omitted to do anything that he should have done.

Of the cases before the District Court in which Glasser was consistently engaged for four years, not one of the

judges testified to any wrongful act or any wrongful omission on the part of Glasser, on the contrary, three of these judges, namely Judges Igoe, Barnes and Woodward, voluntarily appeared and testified in Glasser's behalf to the effect that at all times he performed his duties fully, capably and conscientiously.

While the prosecution suggested that Glasser had failed to present competent witnesses as to material matters, of all the names of witnesses given in the investigator's reports, most of whom must have been available to the Government, not one was produced at the trial to testify either that he was available for Glasser to use or that he had competent knowledge of material matters in any of Glasser's cases, or that through any wrongful act or omission of Glasser, any of said witnesses was prevented from giving his testimony. Of the instances where the charge was made that Glasser failed to act, we adopt the discussion appearing at pages 75-77 of the brief for Daniel D. Glasser, Petitioner. On the contrary, the facts illicited at the trial furnished substantial proof that Glasser was not only innocent, but that he was a capable and outstanding assistant District Attorney. Judge Barnes and Judge Igoe, so testified; Judge Barnes stating that he was "an excellent prosecutor, possibly too good for the criminals" (R. 720).

Judge Igoe, formerly his immediate superior, testified "The various actions of my assistant, Mr. Glasser, were taken up by him and discussed with me and I knew all the orders that were rendered either before or shortly after they were rendered, and they had my approval" (R. 859).

Mr. Dwight Green, now Governor, when United States District Attorney, assigned Glasser to the legal case cal-

endar, a major call in return for Glasser's conscientious services when he first went into that office (R. 914).

Glasser's forfeiture suit against the McHenry Farm was mentioned as an achievement in the Attorney General's report for the year ending June 30, 1938, Page 93.

When Glasser resigned, the then United States District Attorney said, "I want to compliment you, that after four years of handling the hottest calls of the office you were able to have such a record" (R. 944).

The charge against Glasser, a member of the bar of this Court, is serious, involving as it does the disbarment from his profession, in addition to the other penalties. As against the proposition that the charge must be proven beyond any reasonable doubt, the prosecution is compelled to admit "no single case and no single incident compel the conclusion of Glasser's guilt" (Government Brief, page 31).

Not only has the charge failed as to Glasser for want of any "case" or "incident," but Glasser's record and the approval of it by the Judges and his superiors in office require a reversal of the conviction where the safeguards long judicially declared have been so flagrantly disregarded in this case.

Respectfully submitted,

RALPH M. SNYDER,
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